

INDIAN CITIZENSHIP.

The act of April 9, 1866 (14 Stat. L., 27), now section 1992 of the United States Revised Statutes provides that "All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States."

The question of citizenship is as a general rule an individual one to determine which the facts in each particular case must be considered. There are a number of different ways by which Indians have become or may now become citizens. Some of the most important are as follows:

1. Treaty Provision.-- In some of the treaties or agreements with certain tribes of Indians provision was made whereby Indians desiring to become citizens might become such by complying with certain prescribed formalities somewhat similar to those required of aliens. For example, see Articles 13, 17, and 28 of the Treaty of February 23, 1867, with various bands or tribes of Indians (15 Stat. L., 513).

2. Allotment Under the Act of February 8, 1887.-- In the act of February 8, 1887 (24 Stat., 388), Congress provided for the allotment of land to the Indians in severalty and in section 6 thereof declared that Indians so allotted should become citizens of the United States and of the State in which they reside. (See the language of the act.)

3. Issuance of Patent in Fee Simple.--In the act of May 8, 1906 (34 Stat., 182), Congress amended the act of February 8, 1887, so as to postpone citizenship of Indians thereafter allotted until after a patent in fee simple had been issued to said Indians. Provision was also made whereby patent in fee might be issued by the Secretary of the Interior to competent Indians before the expiration of the twenty-five-year trust period. Therefore Indians whose trust patents are dated subsequent to May 8, 1906, and who have also received their patents in fee simple have become citizens under said act of May 8, 1906.

4. Adopting Habits of Civilized Life.--Section 6 of the act of February 8, 1887, both before and after its amendment of May 8, 1906, provided: "That every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life is hereby declared to be a citizen of the United States, and is

entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to tribal or other property."

5. Minor Children.--The Solicitor of this Department has held that where Indian parents became citizens upon allotment, their minor children became citizens with them, and that children born subsequent thereto were born to citizenship.

6. Citizenship by Birth.--(a) An Indian child born in the United States of citizen Indian parents is born to citizenship. (b) Legitimate children born of an Indian woman and a white citizen father are born to citizenship.

7. Soldiers and Sailors.--Congress in the act of November 6, 1919, provided that Indian soldiers and sailors who served in the recent World War and who have been honorably discharged may be granted citizenship by courts of competent jurisdiction. (See Circulars Nos. 1587 and 1618.)

8. Marriage.--The act of August 9, 1888 (25 Stat.L., 392), provided that Indian women who married citizens of the United States thereby became citizens of the United States. This provision is apparently inconsistent with the act of September 22, 1922, and would probably be held to have been repealed by the latter act, though not specifically mentioned therein. Marriages coming within the act of August 9, 1888, and consummated before the passage of the act of September 22, 1922, would not of course be affected by the later act.

9. Special Act of Congress.--Sometimes Congress makes provision for a particular tribe of Indians or a particular group of Indians to become citizens. For instance:

(a) In the act of March 3, 1901 (31 Stat.L., 1447), provision was made for the extension of citizenship to the Indians in the "Indian Territory" by amending section 6 of the act of February 8, 1887 (24 Stat.L., 388). It should be observed, however, that in the act of May 8, 1906 (34 Stat.L., 182), amending said section 6, the language, "and every Indian in the Indian Territory," was not included.

(b) In the act of March 3, 1921 (41 Stat.L., 1249-50), citizenship was extended to all members of the Osage Tribe of Indians.

The above is not intended to be a complete list of the acts of Congress involving the citizenship of Indians, as there are a number of other laws including those affecting particular tribes, but it is believed the foregoing list or statement is sufficient to give a general idea of the main principles or rules involved in the determination of whether or not a particular Indian is a citizen.